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10/053,376	11/09/2001	Richard Ciapala	MSFT-0764/154583.1	2868

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/053,376
Filing Date: November 09, 2001
Appellant(s): CIAPALA ET AL.

Peter M. Ullman (Reg. No. 43,963)
For Appellant

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,760,903	Morshed et al.	7-2004
6,446,137	Vasudevan	9-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

- Claims 1-7,9 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. 6,760,903 B1 to Morshed et al.
- Claims 8,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. 6,760,903 B1 to Morshed et al. in view of U.S. Pat. No. 6,446,137 B1 to Vasudevan et al.

(10) Response to Argument

Appellant argues in substance that (1) the Morshed prior art reference does not teach or suggest "that a first device instructs a second device to provide event information about a procedure that executes at a first device" and as result does not instruct a second device to provide execution information, (2) the "out of band data" of Morshed prior art reference is not analogous to "providing a limited amount of event information" of the claimed invention and (3) the Morshed and Vasudevan prior arts do

not teach or suggest calling a procedure whose identity is undetermined at the time of the call and that there is no reason to combine both teachings.

Examiner respectfully traverses Appellant's arguments:

As to point (1), Morshed teaches making outgoing request or remote procedure call from a client software residing in client system (first device) to a server process residing on server system (server system) (Col. 33 Ln. 20 – 35, Col. 34 Ln. 64 – 67). The outgoing request or remote procedure call includes "out of band data" and used on the server process/server system to "gather execution data" about a procedure/application (Col. 18 – 31). The outgoing request or remote procedure call including the "out of band data" is **an instruction** from the client system (first device) to server system (second device) to "gather execution data"(event/execution information) about a procedure/application executing on the server system. How would the called function/server system know what execution information to gather and return to the caller function/client system if the caller function/client system does not instruct the called function/server system on the type of execution information to gather as Appellant seems to suggest?

As to point (2), the "out of band data" of Morshed prior art reference is analogous to the "providing a limited amount of event information" of the claimed invention because the "out of band data" instructs the called function/server system on what range of information about the execution of a distributed application to gather (out of band data) thereby limiting the information to be returned to the caller function/client system.

As to point (3), on page 7 lines 8-10 of the appeal brief Appellant indicates that the disclose regarding the claim limitation "calling a procedure on a remote device whose location or identity is undetermined at the time of the call" could be found on page 22 lines 12-15 of the specification. However, a careful review of this passage among other things disclosed, actually discloses, "e.g., where a request can be routed to any one of a number of cluster machines depending upon **availability**". Therefore, what is taught in the Vasudevan prior art in fact reads on the claimed limitation "calling a procedure on a remote device whose location or identity is undetermined at the time of the call" especially as interpreted, in light of the specification.

As for the reason for combing the Morshed and Vasudevan prior arts, the Vasudevan prior art describes that a client computer uses a VRPC engine to determine an "appropriate procedure" to invoke on a server (Col. 12 Ln. 60 – 67), thus leading to the conclusion that the Vasudevan prior art improves the system of Morshed by optimally selecting a procedure/server to service a request.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Text of the Final Rejection

Text of the Final Rejection is reproduced for convenience.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7,9 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. 6,760,903 B1 to Morshed et al.

As to claim 1, Morshed teaches a method for tracing a computing task in a distributed computing environment (figure 29 Col. 32 Ln. 50 - 67, Col. 33 Ln. 1 - 19), comprising: at a first device, issuing a first call to invoke a first procedure to be executed at a second device that is different from said first device ("...remote procedure call..." Col. 34 Ln. 64 - 67, Col. 35 Ln. 1 - 8), said first call including tracing information instructing said second device to provide event information regarding the execution of said first procedure at the second device ("...out of band data..." Col. 35 Ln. 18 - 31), at said second device, receiving the first call and invoking the first procedure in response to said first call (figure 32 Col. 39 Ln. 1 - 15) and at said second device, providing event information in accordance with said tracing information (Col. 35 Ln. 27 - 31).

As to claim 2, Morshed teaches the method of claim 1, wherein said tracing information specifies a limitation on the content of the event information, and wherein said act of providing event information comprises providing a limited amount of event information in accordance with the specified limitation ("...out of band data..." Col. 35 Ln. 18 - 31).

As to claim 3, Morshed teaches the method of claim 1, wherein said event information includes property information descriptive of the event, and wherein said act of providing said event information includes providing said property information (Col. 35 Ln. 25 - 31, Col. 35 Ln. 42 - 62).

As to claim 4, Morshed teaches the method of claim 3, further comprising the act of deriving at least some of said property information from an environment present at said second device (Col. 35 Ln. 25 - 31, "...add data..." Col. 39 Ln. 16 - 31, Ln. 51 - 58, Col. 41 Ln. 28 - 31).

As to claim 5, Morshed teaches the method of claim 3, wherein said property information includes a plurality of attributes, wherein said tracing information specifies a limitation as to a subset of said attributes, and wherein said act of providing event information includes providing attributed information limited in accordance with said subset (figure 39/40 Col. 47 Ln. 15 - 67).

As to claim 6, Morshed teaches the method of claim 1, wherein said first procedure produces a result, and wherein said method further comprises providing said result to said first device (Col. 39 Ln. 16 - 34).

As to claim 7, Morshed teaches the method of claim 1, wherein said first procedure issues a second call to invoke a second procedure at a third device different from said first device and said second device, and wherein said method further comprises including said tracing information, or information based on said tracing information, in said second call (Col. 37 Ln. 1 - 13, Col. 48 Ln. 44 - 60).

As to claim 9, Morshed teaches the method of claim 1, further comprising formatting said event information in accordance with a formatting convention (Col. 39 Ln. 16 - 31).

As to claim 23, Morshed teaches a system for supporting tracing in an application program which executes on a first computing device and which issues a call to a second computing device for at least some processing (figure 30 Col. 33 Ln. 20 - 55), the system comprising: a library residing on the first computing device comprising one or more methods callable by the application program ("...several libraries..." Col. 34 Ln. 31-52), an event handler residing on the first computing device which receives events generated by calls to said methods, and which causes the generation of first tracing information in response to said events ("...COM DLL..." Col. 34 Ln. 53 - 63), the

generation of said first tracing information being limited by a requirement that originates from the application program ("...out of band data..." Col. 35 Ln. 18 - 31), and a trace service component which receives at least some of said tracing information and which generates a remote trace request for forwarding to the second computing device when said tracing information indicates that the application program has issued a call to the second computing device (Col. 36 Ln. 60 - 67, Col. 37 Ln. 1 - 4, Col. 39 Ln. 1 - 15).

As to claim 24, Morshed teaches the system of claim 23, wherein the call to the second computing device is represented in the form of a data structure to be transmitted to the second computing device over a communications medium ("...out of band data..." Col. 35 Ln. 18 - 31), and wherein said trace service component attaches the remote trace request to said data structure (Col. 39 Ln. 1 - 15, Col. 43 Ln. 51 - 67).

As to claims 25 and 26, see the rejection of claims 23 and 24.

Claims 8,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. 6,760,903 B1 to Morshed et al. in view of U.S. Pat. No. 6,446,137 B1 to Vasudevan et al.

As to claim 8, Morshed is silent with reference to the method of claim 1, wherein said second device is a member of a cluster of devices, and wherein said first call is

issued to said cluster of devices and assigned to said second device, the identity of said second device being indeterminate at the time of said first call.

Vasudevan teaches the method of claim 1, wherein said second device is a member of a cluster of devices, and wherein said first call is issued to said cluster of devices and assigned to said second device, the identity of said second device being indeterminate at the time of said first call (Col. 5 Ln. 50 - 57, Col. 6 Ln. 9 - 38, Col. 12 Ln. 9 - 48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morshed and Vasudevan because the system of Vasudevan would improve the system of Morshed by selecting appropriate server to service the event tracing request (fig 4a/b Col. 9 - 48).

As to claim 10, Morshed teaches a computer-readable medium having computer-executable instructions to perform acts comprising: determining that generation of event information is enabled generating first event information indicative of a first event occurring during the operation of a program (Col. 34 64 - 67, Col. 35 Ln. 1 - 8, Ln. 18 - 31), and transmitting to said remote device information instructing said remote device to generate second event information indicative of a second event occurring during the operation of said procedure (Col. 35 Ln. 25 - 31), wherein said second event information comprises a plurality of elements, wherein said transmitted act includes transmitting filtering information which limits the second event information to be generated to a subset of said plurality of elements (Step 1152-Step 1162 Col. 49 Ln. 42 - 52).

Morshed is silent with reference to calling a procedure on a remote device whose location or identity is undetermined at the time of the call.

Vasudevan teaches calling a procedure on a remote device whose location or identity is undetermined at the time of the call (Col. 5 Ln. 50 - 57, Col. 6 Ln. 9 - 38, Col. 12 Ln. 9 - 48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morshed and Vasudevan because the system of Vasudevan would improve the system of Morshed by selecting appropriate server to service the event tracing request (Vasudevan fig 4a/b Col. 12 9 - 48).

As to claim 11, Morshed teaches the computer-readable medium of claim 10, wherein said generating act includes generating property information descriptive of said first event (Col. 34 Ln. 64 - 67, Col. 35 Ln. 1 - 8, Ln. 18 - 31).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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